

WRITTEN TESTIMONY OF
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BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
U.S HOUSE OF REPRESENTATIVES
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Good morning Chairman Davis, members of the Committee and colleagues. Thank you for the opportunity to appear before you today to give testimony about the General Services Administration's Network Procurement and for providing a forum to recommend changes to the procurement, that if implemented, would encourage a wider array of proposals from a broader group of communications companies. My name is Diana Gowen and I am the President, Government Solutions for Broadwing Communications.

Broadwing is a small but growing nationwide carrier, providing voice and data services primarily to enterprise customers, over a wholly owned infrastructure employing the most advanced optical technology in the US. Through our equipment manufacturer owner we have become, in a very short time, one of the world's most technologically advanced telecommunications carriers of any size and because of our small size, we are nimble and innovative in ways that some legacy carriers cannot be. While the Universal procurement, as structured, may be beyond our reach, we applaud GSA for showing real vision in creating an Enterprise version of Network to improve the government's access to new networking technologies, cost effectively and quickly.

While a relatively small player compared to others that have or will testify before you today, and a new entrant in the Federal space, Broadwing provides advanced networking services to a very sophisticated customer base: General Electric, Bank of America, DHL, AirTran--to name a few. They entrust their mission critical and customer facing networks to Broadwing. In fact, when you get your cancelled check back from paying the IRS on April 15th, the image of that check likely traveled over Bank of America's network that is provided and managed by Broadwing.

However, in spite of the trust those large commercial customers place in us, we approach Network with some trepidation because of the risks the program poses to an emerging player in a very uncertain telecommunications market. It is not the network services or provisioning challenges that give us pause or take us out of our comfort zone and to the limit of our risk tolerance. It is the investment in non-commercial back office services coupled with an uneven competitive playing field that presents the biggest financial risk to companies like Broadwing.

Please don't interpret my introduction as sour grapes or apples, as I am willing to compete against any of my fellow testifiers on a level playing field in the provisioning of the most advanced networking concepts available today. We are a technological leader and the government, if we are successful in bidding, will find out just how strong a player we are.

The GSA embarked on developing its acquisition strategy for Networkx two years ago and has very consistently sought counsel from many quarters: its customers, the GAO, legacy carriers, ILEC's, Systems Integrators, and emerging carriers. We enthusiastically endorse GSA's inclusiveness and willingness to dialogue with all interested parties. Marked changes have resulted from the varied and many conversations, yet some troubling fundamental issues remain.

Broadwing responded to the initial Networkx Draft RFP last December. My testimony today is informed by our experience in developing that response. In a number of material ways, the construct of the Draft RFP unnecessarily acts to discourage smaller non-legacy carriers from submitting responsive bids while favoring incumbents who have more traditional networks and offerings. This can only serve to limit the pool of candidates available to submit compliant responses despite the stated goal of the process to encourage a broad spectrum of proposals. I'm afraid that without changes in the process, the innovation that is being sought may never materialize. I want to bring seven of the most glaring bidding deficiencies to your attention now with recommendations on how to fix them:

- Non-commercial requirements, yet prices below best commercial rates;
- Performance-based contracting that penalizes poor performance, but does not reward outstanding performance;
- Minimum Revenue Guarantees (MRG's) too low for both Universal and Enterprise;
- Fair Opportunity Across Two Separate and Unequal Contracts;
- Universal bidders with higher MRG's and legacy contracts able to bid Enterprise;
- Enterprise awardees precluded from modifying their contracts during the first twenty-four months of the Networkx contracts, yet Universal awardees allowed to modify their contracts; and,
- Consolidation of the industry through the probable acquisition of ATT by SBC and the possible acquisition of MCI by Verizon or Qwest.

1. Issue: Non-commercial requirements, yet prices below best commercial rates.

Discussion: The Federal Agencies which the General Services Administration represents continue to demand non-commercial billing functionality, reports, and processes, yet expect prices far below best commercial levels. This practice of asking for non-commercial items and expecting best commercial prices applies to both the Universal RFP and the Enterprise RFP. These requirements drive a great deal of special investment that seems inappropriate for a multiple award, Indefinite Delivery Indefinite Quantity (IDIQ) contract with very low minimum revenue guarantees, especially with respect to the Enterprise RFP. Every "MOPs" requirement of Universal is found in Enterprise, yet there is a \$475M difference in the two contract's MRG's. While some of the "MOPs" requirements are on many of our roadmaps for future enhancements for all of our customers, there are many unique changes that will have little commercial applicability and the taxpayer will end up paying for those unique requirements. Wouldn't

this development capital be better spent on new services and innovative implementation techniques?

Recommendation: Eliminate many of the non-commercial requirements or increase the minimum revenue guarantees or allow recovery of non-commercial development in special CLINs similar to the practice for FTS2001. It also should be noted that the Industry Advisory Council's (IAC) Telecommunications Shared Interest Group was asked by GSA to investigate the OSS requirements of Networx. An independent group studied the issues and recommended a greater than 50% reduction in the government's OSS requirements placing them more in line with commercial practices. While some of the recommendations were accepted, the agencies and GSA continue to hold on to outdated "double entry" billing and voluminous reporting systems.

2. Issue: Performance-based contracting that penalizes poor performance, but does not reward outstanding performance.

Discussion: The General Services Administration is attempting, in their Networx draft, to establish a performance driven contract by employing service level agreements (SLA's) coupled with economic incentives. We applaud this effort, in principle. However, in GSA's Draft RFP, GSA has focused only on poor performance by penalizing the awardees for substandard performance. GSA has not provided any incentives for exceeding the government's requirements in the areas of service delivery, the quality of network services, or above average mean time to repair, for example. Each of these areas could positively affect the government's total cost of operations. If a contractor's outstanding performance positively impacts the Government's costs, then there should be a shared savings incentive, just as there is a penalty for performance negatively affecting the Government's costs.

Recommendation: The GSA should solicit the bidders' recommendations for performance-based incentives and evaluate them as part of the overall cost evaluation. The Department of Transportation's award of FTI, as well as the Navy's Award of NMCI, both provide good examples of incentives for superior performance and provide a roadmap for how these incentives can be evaluated in the cost proposals.

3. Issue: Minimum Revenue Guarantees (MRG's) are too low for both Universal and Enterprise.

Discussion: The stated Minimum Revenue Guarantees (MRG's) are too low, considering the organizational costs of preparing for staffing the contract support organization and the amount of development required to be compliant with the non-commercial "back-office" requirements—which are exactly the same for both Enterprise and Universal projects. Non-incumbents of FTS2001, especially, must incur a large capital investment, just to "get to the table," while the FTS2001 incumbents have already had much of the non-commercial "back-office" systems on-line and working for FTS2001 and paid for by the government either through their rate structure or special developmental CLIN's.

Recommendation: Since the non-commercial requirements and investments are the same for both Universal and Enterprise, the MRG's for Enterprise should be raised to the same level as Universal and the Enterprise and Universal contracts (where the incumbents are most likely to bid) should be put on equal footing when competing for agency business. While GSA recently announced an increase in the MRG's for Enterprise, it was by a token amount, raising the bar to \$50 million—still a small fraction of the guarantee to the Universal players. The proposed MRG's combined are below the current annual revenue generated under the existing FTS2001 contracts.

4. Issue: Fair Opportunity Across Two Separate and Unequal Contracts

Discussion: One of the major stated objectives for Universal is continuity of operations. A major objective for Enterprise is new and innovative technological solutions. Because of the agencies' concerns with continuity of operations, the dominant contract vehicle will be Universal and agencies will likely miss opportunities to avail themselves of creative technological solutions, when upgrading their networks.

For example, consider the case of a new, innovative network service, offered only by enterprise providers and one of the universal providers, the agency's incumbent universal carrier. The agency could either provide the incumbent a sole source award at a price that was not competed or abandon its incumbent in its Enterprise task order competition for the new network service. A sole source award certainly would not promote the benefits of more competition--innovation in services and/or lower prices, but at the same time the incumbent, if able to provide, should be allowed to compete with the Enterprise providers.

Oftentimes the innovation in networking technology takes place in the "emerging carrier" and systems integrator space. The legacy carriers, likely to bid the Universal contract, can be innovative, but oftentimes they are slow to adopt and introduce new services and technology, because they have a large investment to protect in their legacy networks. Conversely, there are features within a service category that the new carriers do not provide, such as analog and DS0 services under Private Line, because the newer network providers designed and implemented their networks much more recently and most commercial customers were no longer requiring low speed and analog private line services. For this reason, GSA should change the structure of the contract to enable agencies to consider equally all **viable** solutions across both the Universal and Enterprise contracts and allow optional services to be bid even if all features are not available.

Recommendation: Networkx should change from two separate and unequal contracts to one of three potential arrangements:

First, the Millennia Light and Connections contracts provide one approach—they both offer different services under one contract number. Contracting officers are able to bid service requirements against a variety of solution sets, giving choices to the mission customer.

A second option could be to approach the Office of Federal Procurement Policy (OFPP) and request a modification or exception to the Federal Acquisition Regulations. In this situation the case would need to be made that in many agency requirements, the services, coverage, and performance specifications could be met by a Universal or an Enterprise provider. Expanding fair opportunity under Networkx to include both the Enterprise and Universal programs would generate a broader field of choice, increase price competition, and would reduce the long-term costs and increase the benefits to the government.

Lastly, an administrative agreement could be drawn up by GSA, which would direct an agency to consider all compliant Networkx awardees, regardless of whether they are a Universal awardee or an Enterprise awardee. The current FTS2001 and MAA contracts offer a good example of this approach. For example, on JUTNET, AT&T and Qwest, MCI and Sprint all competed under fair opportunity. AT&T and Qwest won awards under MAA's and Sprint and MCI won awards under FTS2001, yet all competed equally by GSA mandate or fiat. Networkx could adopt a version of this strategy to broaden the competitive playing field during fair opportunity competitions.

5. Issue: Vendors should not be able to bid both Universal and Enterprise.

Discussion: Since a paramount driver of this procurement is choice for the agencies and price performance generated from competition, the ability of incumbents to bid both contracts could virtually eliminate the participation of the emerging service providers and the systems integrators, because the risk/reward potential is out of balance. The results could be limited choice, poor price performance, and higher prices.

Recommendation: Make Universal and Enterprise components of one contract or mandate that a vendor can bid one or the other, but not both.

6. Issue: Enterprise awardees will not be able to modify their contracts during the first twenty-four months of their contracts, yet Universal awardees will be allowed to modify their contracts.

Discussion: This recent announcement by GSA is discriminatory and, once again, works against the stated model for Enterprise as the vehicle for technological innovation. While transition is the stated reason for this period of forbearance, it seems incongruous, at best, to ask carriers to bid on Enterprise and comply with all of the same requirements of Universal, and then prohibit them, for two years, from offering new optional services.

The contract modification process was tremendously streamlined under FTS 2001. The number of modifications successfully negotiated on an annual basis more than doubled over the course of the contract. We all sit in awe at the speed of technological change today, yet it is being contemplated that the "innovation" contract cannot change for two year. If allowed to stand, GSA would be altering a fundamental premise for Enterprise before the final RFP is even released.

Recommendation: Allow both Universal awardees and Enterprise Awardees to modify their contracts to introduce new optional services and features, as necessary, without delay.

7. Issue: Consolidation of the industry through the acquisition of ATT by SBC and the probable acquisition of MCI by Verizon or Qwest.

Discussion: Our last point is actually a caution. With the consolidation beginning to take place in the telecommunications industry today, the government needs to consider the ramifications of the change and how it may affect the choice agencies will have in the future. The industry consolidation that is taking place, will, in all probability, remove two incumbent providers under the FTS2001 contract. Prior to the announcement of the intended mergers, one or both acquirers were anticipated to be Universal bidders. This consolidation in the Telecom industry, in the long term, will reduce the competitors in the federal marketplace and could render the industry into an oligopoly that will be characterized by less pricing flexibility and other unattractive attributes. This is an especially important consideration if the Networx procurement continues to favor the Universal awardees.

The benefits that could accrue to the government from Universal and Enterprise contract holders equally competing include both technological innovation and price/performance. The government should consider these developments carefully before committing Networx to a strategy of separate and unequal contracts, as they stand today.

Recommendation: The GSA award as many contracts as is possible and compete Universal and Enterprise fair opportunities equally.

In summary, competition and choice drive both innovation and price. If the aforementioned issues are not addressed, there will be less choice for government agencies in the Networx contracts. While no potential Networx player has exactly the same issues with the RFP as drafted, all have the common goal of investing in an opportunity that gives them a fair chance to compete, post award. With the current structure of the Networx procurement, the price of entry is high for both Universal and Enterprise, and the playing field, post award, is not level from a risk and reward perspective.

All of this said, we are confident that the GSA, the Committee, and yourself will continue to listen to the stakeholders and craft a Networx Program, which will ensure a fair competitive environment, and the benefits competition drives.

Thank you Chairman Davis and the Committee for your continued interest and time. I am pleased to answer questions.